

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIANA TUCKER, as the parent and
natural guardian of her son, Jelani
Christmas (a minor),

Plaintiff,

v.

SCHOOL DISTRICT OF
PHILADELPHIA and TERRENCE
WALSH,

Defendants.

CIVIL ACTION
NO. 19-889

ORDER

AND NOW, this 13th day of August, 2019, upon consideration of Defendants' Motion to Dismiss (ECF No. 9), Plaintiff's Response (ECF No. 12) and Defendants' Reply (ECF No. 13), it is hereby ORDERED that:

1. The Motion to Dismiss Count I is **DENIED** as to Defendant Walsh and **GRANTED** as to Defendant School District of Philadelphia;
2. The Motion to Dismiss Count II is **GRANTED**;
3. The Motion to Dismiss Count III is **DENIED** as to Defendant Walsh and **GRANTED** as to Defendant School District of Philadelphia;
4. The Motion to Dismiss Count IV against Defendant School District of Philadelphia is **GRANTED**.

Count I is **DISMISSED without prejudice** as to the School District of Philadelphia. Count II is **DISMISSED** as to both Defendants. Counts III and IV are **DISMISSED** as to the School District of Philadelphia.

Plaintiff may amend Count I of the Complaint, consistent with the Court's Memorandum, on or before **August 30, 2019**. Should Plaintiff fail to do so, Count I will be dismissed with prejudice as to the School District of Philadelphia.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.